



May 27, 2008

Internal Revenue Service
1111 Constitution Ave., NW
Washington, D.C. 20224

Re: Comments to the Draft Instructions for the Redesigned Form 990

Dear Sir/Madam:

Grantmakers Without Borders (“Gw/oB”) submits these comments on the draft instructions to the redesigned Form 990. Primary focus is on Schedule F: Statement of Activities Outside the United States.

Background

Gw/oB is a philanthropic network dedicated to international social change philanthropy in the developing world. Gw/oB’s membership, currently numbering 150 entities, includes private foundations, grantmaking public charities, individual donors with a significant commitment to international philanthropy, and philanthropic support organizations. Gw/oB’s members make lifesaving grants to international grassroots organizations that target the root of economic, environmental, and social inequalities within their local communities. Grants range from support to children affected by HIV/AIDS, to reforestation projects in Brazil, to relief for victims of natural disasters.

Comments

The redesigned Form 990 includes a new Schedule F which asks for a statement of activities outside the United States. Gw/oB respects the IRS’ need to monitor exempt organizations and their overseas activities, but asks that some changes be made to the instructions.

Schedule F must be afforded some degree of privacy and confidentiality in order to protect the work and lives of grantees that operate in hostile environments.

Many international grants are given to organizations and individuals that work in socially volatile areas of the world or within intolerant political environments. For example, Haitian human rights activists that denounce government corruption risk physical retaliation, Pakistani organizations that receive organizational support from the United States are sometimes targeted by fundamentalist populations, Indian women rights activists have been killed for their progressive campaigns, and organizations in Uzbekistan and Chechnya face the possibility of

being shut down with violence or government regulations because they support issues in opposition to their government's position.

Many international organizations rely on confidentiality to avoid the abusive practices of an oppressive government or population. Whenever public disclosure is a possibility, the grantee's safety must be a consideration. Unfortunately, Schedule F is a public document. Although Gw/oB respects the public's right to scrutinize the activities of tax exempt organizations, the safety of grantees should trump public disclosure laws.

Gw/oB applauds the IRS' decision to exclude the names of individuals who receive grants from Part III. We ask that this same precaution be permanently extended to the names of grantees within Part II, columns (a) and (b) (currently only applies in 2008).

The instructions for Schedule F, Part II, column (d) preclude the reporting of general support grants.

The instructions for column (d), Part II ask the reporting organization to "[d]escribe the purpose or ultimate use of the grant funds" using "specific descriptions such as school or hospital construction, payments for purchase of medical supplies or equipment, or of school books or schools supplies, provisions of clothing, etc." No guidance is given for legally permissible general support grants which can be hard to qualify in specific terms.

The instructions for Schedule F, Part II, Line 2 fail to preempt any misconception about the legality of grantmaking public charities supporting organizations not recognized within their foreign country or equivalent to a 501(c)(3) public charity.

Schedule F, Part II, Line 2 asks the reporting organization to list the number of grants given to foreign organizations or entities that are recognized as charities by the foreign country in which they reside or counsel has provided a section 501(c)(3) equivalency letter. It is easy to imagine a scenario whereby a reporting organization or member of the general public misconstrues this question to imply that it is illegal to support organizations not registered in their foreign country or found to be 501(c)(3) equivalent.

Gw/oB asks that the IRS include a sentence in the instructions explaining that in most other countries the regulatory structure for charitable organizations is not easily compatible to the U.S. system, therefore many foreign organizations are not recognized by their foreign government. In addition, U.S. tax law does not require grantmaking public charities to secure a 501(c)(3) equivalency letter from counsel. Furthermore, nothing within federal law prevents grantmaking public charities from supporting these types of organizations.

Why does the definition for "foreign individual" include U.S. citizens living outside the U.S.?

Gw/oB has received questions from U.S. citizens living abroad asking why they are considered "foreign individuals" in the redesigned Form 990. Gw/oB hopes the IRS can provide guidance on why this is true.

Conclusion

Gw/oB appreciates this opportunity to respond the redesigned Form 990. Revisions are needed within the instructions to preserve the vital work of grantmaking public charities that give internationally. The names of grantee organizations should be permanently excluded from Schedule F. Schedule F, Part II, column (d) must allow for the reporting of general support grants. The instructions for Schedule F, Part II, Line 2 should preempt any misconception about the legality of grantmaking public charities supporting organizations not recognized within their foreign country or equivalent to a 501(c)(3) public charity.

Sincerely,

A handwritten signature in black ink, appearing to be 'JH', enclosed in a light gray rectangular box.

John Harvey
Executive Director
Grantmakers Without Borders
john@gwob.net